

Notice of Allowability

Application No.

09/734,220

Examiner

Thomas Duong

Applicant(s)

KAUFFMAN ET AL.

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to September 22, 2006.
2. ☒ The allowed claim(s) is/are 1 and 3-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

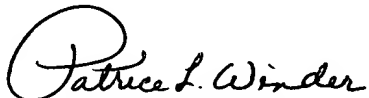
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


PATRICE WINDER

PRIMARY EXAMINER

DETAILED ACTION

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with Lawrence T. Cullen (Reg. No. 44,489) on December 8, 2006.
3. The application has been amended as follows:

Please cancel *claim 2*.

2. (Canceled)

Response to Arguments

4. The Applicants' arguments filed in the Appeal Brief on September 22, 2006 have been fully considered and are persuasive.

Allowable Subject Matter

5. *Claims 1 and 3-30* are allowed. The claims indicated include limitations that the prior arts of record do not appear to teach or render obvious, hence they are allowed.

6. The following is an examiner's statement of reasons for allowance:

As presented in the previous Office Action, Capek et al. (US006094677A) discloses, *"at a minimum, it is expected that the control mechanism will provide for the replacement of the insertion by the requested program material once the program material is received from the distribution server"* (Capek, col.9, lines 11-13). Hence, Capek teaches of a control mechanism (i.e., Applicants' switching mechanism) that is capable of inserting alternative media including *"text, graphics, animation, motion video, sound, etc"* as well as *"the combination of data having different formats into a single insertion for providing a multimedia experience to the client"* (Capek, col.7, lines 49-52). Capek discloses, *"with reference to FIG. 2, the present invention provides for an insertion manager 20 that implements the present invention in conjunction with an insertion repository 22. In general, the insertion manager 20 detects a request from a client 24 for program material located at a server 26"* (Capek, col.7, lines 17-21). In addition, Capek discloses, *"associated with the insertion manager 20 is the insertion repository 22. The insertion repository 22 includes the insertion data or precursor information that can be used to generate the insertion provided to the client 24"* (Capek, col.7, lines 39-42). Hence, Capek teaches of a multimedia insertion system that includes an insertion manager 20 (i.e., Applicants' control unit), a server 26 (i.e., Applicants' first cache), and an insertion repository 22 (i.e., Applicants' second cache).

However, the prior arts of record fail to teach or suggest individually or in combination as stated in the independent claims for "wherein the alternative media file is inserted in the stream independent of boundaries of the multimedia file." and in combination with other

Art Unit: 2145

limitations as set forth in the independent claims, as well as Applicants' arguments presented on pages 7-17 of the Appeal Brief filed on September 22, 2006.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Duong whose telephone number is 571/272-3911. The examiner can normally be reached on M-F 7:30AM - 4:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason D. Cardone can be reached on 571/272-3933. The fax phone numbers for the organization where this application or proceeding is assigned are 571/273-8300 for regular communications and 571/273-8300 for After Final communications.

Thomas Duong (AU2145)

December 8, 2006

Jason D. Cardone

Supervisory PE (AU2145)

Patrice Winder
PATRICE WINDER
PRIMARY EXAMINER
for
Jason Cardone